

### Remarks/Arguments

Prior to the present amendment, claims 39-47, 49-52 and 54-58 were pending in this application and were rejected on various grounds. Claims 39-43 and 45-47 have been presently canceled without prejudice or disclaimer. Claims 48 and 53 were canceled previously, without prejudice.

Although the Examiner has withdrawn some of the previous objections and rejections, all claims remain rejected under 35 U.S.C. § 112, first paragraph for lack of enablement.

This rejection is respectfully traversed.

### Priority

Applicants had earlier submitted that the claims are entitled to the priority date of December 16, 1999 of the international application PCT/US99/30095. The Examiner acknowledges that only the nucleotide sequence set forth in SEQ ID NO: 262 (full length) is afforded this filing date of December 16, 1999 but adds further that isolated nucleic acids encoding the polypeptide to SEQ ID NO: 263, or their encoded variants are not supported by the disclosure in international application PCT/US99/30095 since the prior application does not provide a specific and substantial asserted utility for the claimed invention.

In view of the cancellations of claims 39-43 and 45-47 and further, due to the present claim amendments, this rejection is believed to be obviated. Applicants submit that claims 44, and its dependents are entitled to the priority of December 16, 1999, since they now recite only the nucleotide sequence in SEQ ID NO: 262; the nucleic acids recited in Claim 52 have utility as probes/primers in the gene amplification diagnostic assay for which PCT/US99/30095 provides specific substantial and credible asserted utility. Accordingly, the present application should be entitled to the effective filing date of December 16, 1999.

### Claim Rejections - 35 USC § 112

Claims 39-47, 49-52 and 54-58 are rejected under 35 U.S.C. § 112, first paragraph for lack of enablement. As mentioned above, the Examiner acknowledges that the nucleic acid in SEQ ID NO: 262 is enabled.

In order to expedite prosecution in this case, Applicants have canceled references to "nucleic acids encoding polypeptide of SEQ ID NO: 263." Further, since the nucleic acids of claim 52 which hybridize under stringent conditions to SEQ ID NO: 262 would find use as diagnostic probes/primers for gene amplification diagnostic assays, their use has been enabled.

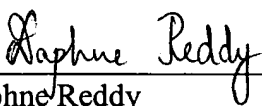
Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the pending claims under this section.

The present application is believed to be in *prima facie* condition for allowance, and an early action to that effect is respectfully solicited.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 08-1641 (Attorney Docket No.: 39780-1618P2C80). Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

Date: October 17, 2003

  
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